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09/675,700	09/29/2000	Daryl D. Starr	ALA-010B	9585
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MARK A LAUER 6601 KOLL CENTER PARKWAY SUITE 245 PLEASANTON, CA 94566			EXAMINER BURGESS, BARBARA N	
			ART UNIT 2457	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# **Advisory Action** **Before the Filing of an Appeal Brief**

**Application No.**

09/675,700

**Applicant(s)**

STARR ET AL.

**Examiner**

BARBARA BURGESS

**Art Unit**

2457

**-The MAILING DATE of this communication appears on the cover sheet with the correspondence address -**

THE REPLY FILED 08 April 2013 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

## **NO NOTICE OF APPEAL FILED**

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires \_\_\_\_\_ months from the mailing date of the prior Advisory Action or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

*Examiner Note:* If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANT'S FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).  
 Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) or (c) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## **NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

## **AMENDMENTS**

3. ☐ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because:  
 a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 b) ☐ They raise the issue of new matter (see NOTE below);  
 c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  
 NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): (a) ☐ will not be entered, or (b) ☐ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

## **AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

## **REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Response to Argument(s) below.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_

## **STATUS OF CLAIMS**

14. The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: None.  
 Claim(s) objected to: NONE.  
 Claim(s) rejected: 1-7 and 21-33.  
 Claim(s) withdrawn from consideration: 8-20 (previously cancelled).

/Barbara N Burgess/  
Primary Examiner, Art Unit 2457

## Response to Arguments

The Office notes the following argument(s):

- (a) Regarding the 112, 1<sup>st</sup> rejection, Applicants are surprised that the Examiner does not recognize the abundant support in the specification for the "wherein said data corresponds to a layer higher than said transport layer" and "associating...said TCP connection with said file cache" recitations. In addition to Applicant's previous citation, please see page 10, lines 14-23, page 11, lines 5-18, page 14, lines 4-20 for example.
- (b) Regarding the 112, 2<sup>nd</sup> rejection, the term "said memory" closely follows the term "an interface memory", in the claimed recitation, so it is quite clear what "memory" is being recited. Indeed, there is no other "memory" recited in the claims, so there can be no confusion.
- (c) Claim 28 does not contain the recitation which the Final Rejection alleges are indefinite.
- (d) None of the references cited teaches or suggests "an interface mechanism for associating...said TCP connection with said file cache".
- (e) The "Network File System (NFS) application" taught by Muller is not however, "a high level software entity that contains general knowledge of the organization of information on storage units 66 and 70 and file caches 24 and 80, and provides algorithms that implement the properties and performance of the storage architecture."
- (f) NFS does not "logically organize...information stored on the storage units 66 and 70, and respective file caches 24 and 80, as a hierarchical structure of files, although such a logical file may be physically located in disparate blocks on different disks of a storage unit 66 and 70."
- (g) NFS does not "manage...the storage and retrieval of file data on storage units 66 and 70 and file caches 24 and 80."
- (h) Muller does not disclose "an interface memory adapted to store said data in said file cache for a computer having a file system that controls the file cache" as recited in claim 1.
- (i) Muller does not teach or suggest a file cache disposed on an interface device.
- (j) Muller does not teach an "interface mechanism for associating...said TCP connection with said file cache".
- (k) The Final Rejection cobbles together bits and pieces of various references that inadequately describe portions of the claims and jumps to the conclusion that the claims are obvious.
- (l) A Fibre Channel controller is not disclosed in Elzur.
- (m) The recitations of claim 6 are not met by the cited portion of Muller.
- (n) The recitations of claim 7 are not met by the cited portion of Muller.

In response to:

- (a) Examiner appreciates Applicant for citing portions of the specification that discloses the particular claim language. As previously stated, the previous citation was not sufficient in disclosing the particular claim language. However, Applicant has provided further citations.
- (b) As Applicant well knows, claim language should be particular, clear and concise. Applicant is to be consistent in language. Applicant first states "an interface memory". It would be clear, concise, and consistent to refer to this "interface memory" as such.
- (c) Examiner agrees with Applicant and acknowledges that claim 28 does not have this 112 2<sup>nd</sup> recitation.
- (d) According to Elzur, packets are received from the network and parsed to extract characteristics such as flows. At least one flow is associated with a TCP. The flow tuple indicates TCP destination ports, TCP source ports, IP addresses, etc. (column 4, lines 10-13, 32-45). Therefore, Elzur indeed teaches "an interface mechanism for associating said packet with said TCP connection". According to Muller, a packet is also received by the NIC and parsed for certain characteristics. When storing the packet in a queue, a checksum operation is performed according to TCP. The checksum value is then added to the queue as a trailer to the packet (column 12, lines 1-10). Also, packets can be stored in registers and assigned a TCP sequence number (column 26, lines 8-12, column 30, lines 40-50). Therefore, Muller discloses "associating said TCP connection with said file cache..."
- (e) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., high level software entity that contains general...of the storage architecture) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
- (f) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., logically organize...hierarchical structure of files) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
- (g) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., manage...the storage and retrieval of file data on storage units and file caches) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
- (h) Muller teaches a Network File System (NFS) application, data portion may include NFS headers related to individual NFS datagrams. A datagram is defined as a collection of data sent from one entity to another and may comprise data transmitted in multiple packets. The Network Interface Circuit (NIC) uses header information to process the packet as well as NFS file handles. The NIC has a processor and memory to process and store packet information. Buffers the size of a memory page are used to assemble data (column 11, lines 52-59, column 12, lines 15-20, column 15, lines 19-25, column 16, lines 59-61, column 23, lines 18-30, column 26, lines 15-20, column 54, lines 32-43, column 56, lines 20-30, column 57, lines 55-65, column 58, lines 26-30, column 59, lines 60-65). Therefore, Muller undoubtedly discloses "an interface memory...adapted to store said data in said file cache" as recited in claim 1.
- (i) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a file cache disposed on an interface device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
- (j) According to Muller, a packet is also received by the NIC and parsed for certain characteristics. When storing the packet in a queue, a checksum operation is performed according to TCP. The checksum value is then added to the queue as a trailer to the packet (column

12, lines 1-10). Also, packets can be stored in registers and assigned a TCP sequence number (column 26, lines 8-12, column 30, lines 40-50). Therefore, Muller discloses "associating said TCP connection with said file cache..."

(k) In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

(l) A fibre channel is a serial data transfer architecture. Elzur teaches the receive path having circuitry such as serial-to-parallel to receive a serial stream of bits from a network interface (column 7, lines 21-27, 59-67). Therefore, Elzur indeed discloses a Fibre channel controller.

(m) Elzur teaches the receive path having circuitry such as serial-to-parallel to receive a serial stream of bits from a network interface (column 7, lines 21-27, 59-67). Therefore, Elzur indeed discloses recitation of claim 6.

(n) Elzur teaches mapping flow key to identify processors to process a packet received by the NIC (column 50, lines 53-67). Therefore, Elzur indeed discloses the limitations of claim 7.